

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

PAUL PALS,

Complainant,

VS .

No. 05-0392

NORTHERN ILLINOIS GAS COMPANY,
d/b/a NICOR GAS COMPANY,

Respondent.

Complaint as to billing/charges
in Crete, Illinois.

Chicago, Illinois
September 26, 2005

Met, pursuant to adjournment, at 11:00 a.m.

BEFORE :

Ms. Leslie Haynes and Ms. Katina Haloulos,
Administrative Law Judges

APPEARANCES :

MR. PAUL PALS
1828 East Rietveld Drive
Crete, IL 60417
(708) 672-1387
via phone pro se;

1 APPEARANCES (cont.):

2 MR. RICH THOMETZ
3 1844 Ferry Road, 7W
4 Naperville, IL 60563
5 (630) 388-2457
6 for respondent.

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- direct</u>	<u>Re- cross</u>	<u>By Examiner</u>
V. Sons	67				
T. Moretti	76	95			98

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
Compl. 1	38	61
Compl. 2	38	61
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Compl. 5	50	62
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Compl. 7	53	64
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Resp. 2	91	100
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1 JUDGE HAYNES: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 05-0392. This is the complaint of Paul Pals versus
4 Nicor Gas.

5 May I have your name and address for
6 the record, please.

7 MR. PALS: My name is Paul Pals, P-a-l-s. The
8 address is 1828 East Rietveld Drive, Crete, Illinois,
9 60417.

10 JUDGE HAYNES: And for Nicor.

11 MR. THOMETZ: Rich Thometz, attorney for Nicor
12 Gas, 1844 Ferry Road, 7W, Naperville, Illinois,
13 60563.

14 JUDGE HAYNES: Okay. So we're going to have
15 the evidentiary hearing today. And, Mr. Pals, you're
16 going to go first, so I need to swear you in.

17 MR. PALS: Okay.

18 (Witness sworn.)

19 JUDGE HAYNES: Thank you.

20 So if you would like to go ahead and
21 begin. Do you have a statement to make in support of
22 your complaint?

1 MR. PALS: Yes. I have what -- well, I
2 followed the instructions that were given to me in
3 the packet from the ICC. And so basically what I
4 have done is prepared what I consider or what was
5 referred to in that set of instructions as my
6 testimony or whatever, which will use some of the
7 documents I have presented as well, and then I will
8 later on have a closing statement.

9 To begin the testimony or facts part
10 of it, basically I would say the following: In 1999
11 while I was planning a new home, I investigated the
12 possibility of installing a standby generator due to
13 my disability of Becker's muscular dystrophy. The
14 generator companies I had contacted said that I would
15 need to install what they referred to as a two-pound
16 service since the generator requires somewhere
17 between 11 and 14 inches of pressure. I asked them
18 how that went or what that would cost, and they told
19 me to talk to the utility company. So at that point
20 I delayed the purchase of any generator because I'm
21 on a fixed disability income and was concerned about
22 the cost of the service.

1 In approximately May of 2000, I began
2 building the new home still hoping to install the
3 standby generator because of my being wheelchair
4 bound due to the muscular dystrophy.

5 Approximately in July of 2000, I
6 contacted Nicor and spoke with a representative named
7 Vickie Sons about getting a service installed in my
8 home. And after some communications, we met at my
9 home and we discussed this service. And in the
10 documents that I mailed to you, there is a Page No. 6
11 which is some notes that I wrote when I discussed
12 this service back in July of 2000.

13 I discussed that two-pound service
14 with her and asked if there were any additional
15 charges for this service or was it basically the same
16 as any other residential service. And at that point
17 we also discussed the gas appliances that I would be
18 installing in my home as well. And she informed me
19 at that time that the only additional charge would be
20 for the installation, that the installation would be
21 somewhat more expensive, but after that there would
22 be no difference in cost from a standard residential

1 service. And Page 6, as I referred to earlier, are
2 the notes that I had regarding those questions.

3 So based on that information that was
4 provide to me by Vickie Sons shown on that document,
5 I opted to install the two-pound service. And based
6 on that information, I proceeded to work toward
7 purchasing a generator.

8 In late July or early August, I
9 received a bill --

10 JUDGE HAYNES: Of what year?

11 MR. PALS: Of 2000 yet.

12 So in July or early August of 2000, I
13 received a bill from Nicor because she had explained
14 to me I would have to pay in advance \$304.50 for the
15 installation of the two-pound gas service as per our
16 previous discussions. I paid the bill. I think the
17 bill is dated when I paid it or signed it August 9th.

18 At that time she also -- I had to
19 submit what I believe she referred to as a load
20 sheet. And that load sheet that I submitted was
21 included in Nicor's documents. I don't think there
22 were page numbers. So just counting from the

1 beginning, they were stapled together, I believe it's
2 the eighth page.

3 That load sheet was submitted by me
4 for my home, and that document which you have still
5 remains to this day as the complete and the correct
6 load factor for my home since I haven't added or
7 removed any gas appliances after the original
8 construction.

9 After I submitted that load sheet, I
10 was contacted by Vickie to say that the meter would
11 be insufficient for my load and that I would need a
12 different meter at an additional charge unless I were
13 to sign a letter of release for Nicor. At that point
14 we had a discussion about that load sheet, and I
15 informed Vickie that, you know -- that I had not been
16 informed of that before I purchased the service, but
17 I went ahead and the problem that she thought would
18 require a larger meter would not be a factor.

19 And as it was explained to me, if I
20 ran all my appliances at one time, I may not have
21 enough gas yet I pointed out that some of my things
22 cannot run when the generator is in use because

1 they're not part of the generator panel that the
2 generator services. So I said, you know, I don't
3 have a problem with signing that kind of a letter
4 because as you see it, you don't understand how I
5 intend to use the appliances. Now that you
6 understand, I mean, I don't foresee a problem.

7 And basically in that discussion, it
8 was brought up that, well, what may happen is in the
9 middle of the winter you're running everything and
10 you don't have enough gas and then you're going to
11 come to us and say, I need another meter. And we may
12 take time to install that and so forth and therefore
13 you will be unhappy with us. I said, Well, you know
14 I understand that; I don't foresee that as a problem.

15 So that document, I believe, is also
16 in the packet presented by Nicor. I believe that's
17 Page 9 of that packet that they submitted. And I
18 have copies of that too. But anyway, that document
19 is there. And it basically made me responsible if I
20 had to call and say, Hey, my appliances aren't
21 running well enough, you know, I'm not getting enough
22 gas from my meter. Then it would be my

1 responsibility --

2 JUDGE HALOULOS: Excuse me, Mr. Pals. Does
3 somebody have a copy of the documents?

4 Specifically do you have a copy of the
5 documents that you sent to him because we don't have
6 any of this. So that would certainly be helpful.

7 JUDGE HAYNES: Mr. Thometz, do you plan on
8 submitting these documents into the record?

9 MR. THOMETZ: Yes.

10 JUDGE HAYNES: Okay.

11 MR. THOMETZ: I sent copies as well. Let me
12 make sure that these -- give me just one moment to
13 make sure I have them.

14 MR. PALS: By the way, I'm assuming that the
15 documents that you have are in the same order as the
16 ones that you sent to me from Nicor, so that's why
17 I'm just using these references.

18 MR. THOMETZ: Yes.

19 JUDGE HALOULOS: And this is everything that
20 was sent?

21 MR. THOMETZ: Yes.

22 JUDGE HALOULOS: Thank you.

1 I'm sorry. What page were you on,
2 Mr. Pals?

3 MR. PALS: Pardon me? I couldn't hear you.
4 I'm sorry.

5 JUDGE HALOULOS: What page were you on?

6 MR. PALS: Well, I have referred to two
7 different documents that were part of the packet that
8 Nicor has presented and I have copies also. I
9 believe the first document I referred to -- and let
10 me see here for sure so I'm not inaccurate -- I think
11 it is their Page No. 8 and that is the load factor
12 sheet or whatever, however one wants to refer to it,
13 dated August 7, 2000. You will notice this has a
14 business letterhead of Van Drunen Heating, Inc.

15 JUDGE HALOULOS: Okay. We're on board.

16 MR. PALS: All right. That's the total load of
17 my home that I was asked to submit.

18 JUDGE HAYNES: Okay. We're going to mark this
19 for the record as Complainant's Exhibit 1. And that
20 is, like you just stated, Van Drunen Heating, Inc., a
21 letter dated August 7, 2000.
22

1 (Whereupon, Complainant's
2 Exhibit No. 1 was marked for
3 identification.)

4 JUDGE HAYNES: And then the second thing you
5 referred to that you were calling the release.

6 MR. PALS: In my packet, it is the next page --
7 no. Wait. Excuse me. Excuse me. I may be
8 incorrect. It is the previous page.

9 JUDGE HAYNES: The previous page. And it's
10 dated September 13, 2000, and it's, I, Paul Pals,
11 owner of the property... Is that the sheet of
12 paper --

13 MR. PALS: That is correct.

14 JUDGE HAYNES: -- that you've signed?

15 MR. PALS: Yeah.

16 JUDGE HAYNES: We're going to mark this for the
17 record as Complainant's Exhibit 2.

18 (Whereupon, Complainant's
19 Exhibit No. 2 was marked for
20 identification.)

21 MR. THOMETZ: For the record, I have an
22 objection as to Exhibit 1 which I have some

1 foundation concerns.

2 JUDGE HAYNES: Okay. At the moment we're just
3 marking them for the record so that it's clear when
4 we go back to read the transcript what we are
5 discussing.

6 Okay. I know we've interrupted you.
7 You signed the release. I don't know if you can pick
8 up where you were or...

9 MR. PALS: Do you want to address Mr. Thometz's
10 comment at this point? Is that what you're saying?
11 He has a problem with the load sheet if I understood
12 correctly, unless I misunderstood.

13 JUDGE HAYNES: Well, right now we're not moving
14 your exhibits into the record. Just go ahead and
15 continue, and then we'll discuss whether or not we're
16 going to admit these into the record and at that time
17 we'll talk about his objection.

18 MR. PALS: Okay. Well, since something was
19 mentioned about Exhibit 1, I also have an inaccuracy
20 on the sheet from Exhibit No. 1 which -- if you want
21 me to address it now, I will; if not, we can address
22 it later.

1 JUDGE HAYNES: You can go ahead and discuss it.

2 MR. PALS: There is one error. It is not major
3 but I want to clear it up.

4 Under appliances, it says furnace (2),
5 boiler (1), emergency generator, and then boiler (1)
6 and it lists that as 150,000. As it turns out, that
7 was initially going to be a 150,000 BTU boiler. But
8 as it turned out, once more work was done in
9 checking, that did not turn out to be a 150,000 BTU
10 boiler. It turned out -- without looking at the
11 ticket, the plate, I believe it's 104,000. But, I
12 mean, this is the sheet that was submitted because
13 this was submitted early within the construction of
14 the home and then that alteration was made at that
15 time. But just for clarity, I wanted people to know
16 that.

17 JUDGE HAYNES: Okay.

18 MR. PALS: All right. Let me see where I was.

19 Okay. Basically now that we have
20 established those two sheets then, you know, at this
21 point there have not been any additional changes made
22 to that sheet, additions or subtractions. I mean, I

1 still do have those appliances.

2 So to continue, the service, that is
3 the two-pound service, was then installed in
4 approximately late August or September of 2000 which
5 was after I had paid the initial fee for the
6 installation.

7 And it probably should be noted that
8 at that time when I was at the construction site and
9 the construction crew arrived to install the gas
10 service, even though I had paid for a two-pound
11 service, the construction crew was going to install a
12 standard residential service because none of the
13 installation crew knew anything about a two-pound
14 service and, as it turned out, did not even have the
15 appropriate size gas line with them for the two-pound
16 service even though I had paid for that two-pound
17 service.

18 So I, as the homeowner, had to stop
19 them and tell them not to install the service, the
20 service they had planned to install. And then there
21 were numerous cell phone conversations and calls to
22 the Glenwood office and discussions with pressure

1 supervisors, et cetera, and it was eventually
2 determined that I was correct and that it should have
3 been a two-pound service. So another truck was
4 requested to come out to the site with the
5 appropriate size gas line, and finally the service
6 was installed, but I was told someone else would come
7 back and install the meter at a later date.

8 Once the service was installed and
9 some time went by -- I'm guessing not a lot -- I then
10 proceeded to use the gas for that winter to heat the
11 home during the construction. And when I finished
12 construction in September of 2001, I continued to use
13 the gas as I was living in the home. And all my
14 bills during both construction and when I moved in
15 were consistent with a bill that has standard
16 residential pressure charges and the information that
17 had been provided to me by Vickie Sons in our
18 discussions prior to the installation of the service.

19 Then on my December of 2003 bill,
20 which I received in the mail, it said, quote, meter
21 exchange, end quote. And that bill I've included in
22 my documents as Page No. 9, I believe. Let me check

1 if I'm right on that, but I think you should have
2 that. Yes. Page No. 9 of what I submitted.

3 JUDGE HAYNES: Is this where it has in your
4 handwriting, Paid, 1/15/04?

5 MR. PALS: I'm sorry. If you were talking to
6 me, I didn't hear you.

7 JUDGE HAYNES: Yes. This is the one you've
8 marked with a red pen as Page No. 9?

9 MR. PALS: Yes.

10 JUDGE HAYNES: Okay. We're going to mark this
11 as Complainant's Exhibit 3.

12 (Whereupon, Complainant's
13 Exhibit No. 3 was marked for
14 identification.)

15 JUDGE HAYNES: Okay. Go ahead.

16 MR. PALS: Okay. Just a minute. Let's see.
17 All right.

18 So when I received that bill, I knew
19 that something was wrong because, first of all, after
20 my meter was installed and before I moved in, I
21 painted my meter and the piping to match the color of
22 the brick right after it was installed. So I looked

1 outside through the window and realized that the
2 meter was still the same color.

3 Second, I knew that if anybody had
4 exchanged my meter, they would need to turn the gas
5 off and then come back into my house and restart the
6 pilot light and I knew that had never been done. And
7 I believe I looked at the meter number on the bill
8 and it was the same meter number as the previous
9 meter that, according to this bill implied, had been
10 removed. I didn't look at the meter number because I
11 can't get out there, but I had somebody look at the
12 meter number just to verify it for me.

13 So at that point, I called customer
14 service and requested a representative come to my
15 home. And I believe a document that Nicor submitted,
16 which is their first page of the documents I
17 received, does state the fact that -- the first and
18 maybe even the second page state that they did send a
19 representative to my home.

20 And when the representative arrived, I
21 showed him the bill which was my exhibit Page 9 or
22 Complainant's Exhibit No. 3, I believe you said, and

1 that particular representative from Nicor looked at
2 it and he says, No, this is wrong, this is a mistake,
3 this can't be. So he says, I will correct it so that
4 they know you didn't get your meter.

5 MR. THOMETZ: I'm going to object as to
6 hearsay. I don't even know who he's -- we don't have
7 a name.

8 MR. PALS: I can tell you only he was an
9 African-American gentleman who came here.

10 JUDGE HAYNES: We're going to allow the
11 testimony. Go ahead.

12 MR. PALS: Let's see. So he looked at the bill
13 with me and he says, Yeah, I don't understand this.
14 He said, There is something wrong, but I will get it
15 corrected for you -- let's see -- and that I would
16 get a new bill. So I did receive a new bill. I did
17 pay the bill. He told me not -- when we discussed
18 that first bill I got, he said, Don't pay that bill.
19 He says, I'll get a new bill.

20 So at that point, I trusted that
21 person, that that was a mistake and he would correct
22 it. And I believed at that point that everything was

1 back to normal. However, I was on a fixed gas bill
2 program that I had signed up for at this point in
3 time and that bill program ran from when I signed up
4 in July of 2003 until July of 2004. And if one looks
5 at Complainant's Exhibit No. 3, you will notice there
6 is a total amount due which is a fixed amount. That
7 amount was \$153.07. So I assumed that everything has
8 been corrected.

9 What happened was that, assuming
10 everything was back to normal, I did not realize
11 being on a fixed gas bill program until the winter of
12 2004 that it seemed as if my gas bills were higher.
13 Just in general it seemed like they were a little
14 high.

15 So I looked at my bill carefully in
16 December of 2004 and I realized there was an
17 additional what they called pressure factor that had
18 been listed on my bill way back in December of 2003.
19 And if one looks at my exhibit or my Page No. 10 with
20 the red No. 10 in the upper right-hand corner --

21 JUDGE HAYNES: Which we'll label Complainant's
22 Exhibit 4.

1 MR. PALS: Okay.

2 (Whereupon, Complainant's
3 Exhibit No. 4 was marked for
4 identification.)

5 JUDGE HAYNES: Go ahead.

6 MR. PALS: If one looks -- I'm writing a note
7 here that this is No. 4.

8 If one looks at that exhibit under
9 meter reading and then goes down to the fourth line,
10 conversion to therms, you've got 734 times 1.01 BTU
11 factor times 1.119 pressure factor. When I compared
12 that to the previous bill which is my Complainant's
13 Exhibit No. 3, that pressure factor was not on there,
14 the 11.9 percent increase.

15 So I then proceeded to look back
16 through older bills as well. And as far back as the
17 beginning of my home when I moved in, there was no
18 pressure factor like that. So after I looked back at
19 that and saw that, then that looked not right to me
20 and it was not consistent with the visit I had with
21 the gas company representative and it was also
22 inconsistent with what had previously happened for

1 approximately three and a half to four years -- I
2 would have to do the calculations -- that is, from
3 the beginning, the time the gas service was installed
4 up until December of 2003. So I think we're dealing
5 with approximately from September of 2000 when the
6 gas service was installed until December of 2003.

7 So in I guess it was late December or
8 early January of 2004, I called the customer service
9 department for an explanation, and basically I got a
10 long runaround because whenever I would ask a
11 question, they would simply say, Oh, this has to be
12 referred --

13 MR. THOMETZ: I have another objection as to
14 hearsay.

15 JUDGE HAYNES: Overruled.

16 Continue.

17 MR. PALS: So when I called, they said, Well,
18 this has to go to a different department, we will
19 contact them, and they will contact you in three
20 days. So I said, How will I be contacted, will
21 someone call me or will I -- No, no, you'll get
22 called in three days.

1 Well, no one ever did call back. And
2 so after a number of days -- I think it was close to
3 two weeks -- I called back again. And I said, I had
4 made a complaint. And they said, Oh, yeah, we see
5 this on the computer. And I said, I was supposed to
6 get a call in three days and no one has called me.
7 So they said, Oh, no, no, that's incorrect, this will
8 take between 20 and 30 days. I said, Really. Oh,
9 yeah. I said, Well, I would like to speak to those
10 people. Oh, you can't do that. We will send them an
11 E-mail and they will contact you.

12 So I went up and back, up and back
13 calling customer service for additional calls, and I
14 received numerous unsatisfactory responses to the
15 point where finally I looked up the old phone number
16 to try to track down Vickie Sons who had sold me the
17 service. And I was able to get ahold of her in -- it
18 might have been January or I think it was February of
19 2005, and she said she would have somebody talk to
20 me, that she would really contact someone and they
21 would talk to me. And she also pointed out that she
22 was not responsible for pressure regulations, that

1 she would contact someone.

2 So I received a call on February 11,
3 2005, from a gentleman by the name of Don, and his
4 phone number I think was (630) 983-8676, extension
5 4842. And he said that in December of 2003 when my
6 bill said, quote, meter exchange, there was no meter
7 exchange but that they did that because in his office
8 his secretary caught what he called a mistake and
9 that I should be charged that extra 11.9 percent
10 because I'm getting more gas through my meter than my
11 meter is reading. And I believe when I talked with
12 Don, I took some notes, and I submitted that sheet of
13 notes that I had as my Document No. 8 or Page 8.

14 JUDGE HAYNES: Would you like this also marked
15 for the record? Are you going to submit this as an
16 exhibit do you think? We'll go ahead and mark it.
17 Are you going to continue on this page? Go ahead.

18 MR. PALS: I'm sorry. I couldn't hear.

19 JUDGE HAYNES: It's Complainant's Exhibit 5.

20 (Whereupon, Complainant's
21 Exhibit No. 5 was marked for
22 identification.)

1 MR. PALS: Okay. And I had asked him some
2 questions when we were on the phone, and I had
3 informed him then that that was contrary to what I
4 was told when I purchased the service from Vickie
5 Sons and that I felt the factor should not be there
6 and therefore it should be removed. And I also
7 expressed my disgust with being deceived by
8 misstatements on the gas bill that don't inform me
9 properly as to what is really happening with this.
10 So at that point in our discussion he,
11 you know, basically said, No, you know, you can't do
12 that, you know, things of that sort. He even talked
13 about, Well, I'll change the service back to standard
14 pressure. I said, Well, I can't do that. And so I
15 couldn't seem to get anywhere.
16 So at that point or shortly
17 thereafter, I contacted the Citizens Utility Board
18 and later the Illinois Commerce Commission. Citizens
19 Utility Board tried to resolve the issue. They
20 called me back, and they said they were not
21 successful and that I should file a complaint with
22 Lisa Madigan, the State's Attorney's Office. So then

1 I -- and I could contact the ICC.

2 So I contacted the ICC with an
3 informal complaint and tried to resolve it. And I
4 believe out of that discussion with the ICC, I
5 received a registered letter from Mr. Tom Moretti
6 which I have submitted as my Page 5. And in that
7 document he said, No, we will not remove the pressure
8 factor.

9 JUDGE HAYNES: Is this a letter dated March 29,
10 2005?

11 MR. PALS: That is correct.

12 JUDGE HAYNES: Okay. This is Complainant's
13 Exhibit 6.

14 (Whereupon, Complainant's
15 Exhibit No. 6 was marked for
16 identification.)

17 JUDGE HAYNES: Continue. Go ahead.

18 MR. PALS: Okay. And I would say that
19 basically when I got that letter, then I contacted
20 the ICC again and Mr. -- oh, boy, I forget his name
21 from the ICC -- said the only thing you can do is
22 then file a formal complaint. So I said, Well, I

1 guess because of what I considered were the
2 misrepresentations and misinformation, I will do
3 that. So I proceeded to file the formal complaint.
4 And I guess that's where we are here today. So
5 that's basically the facts of the situation.

6 JUDGE HAYNES: Okay. You mentioned earlier
7 what you have marked as Page 6, and it was not marked
8 for the record. And it's the sheet of paper titled,
9 Questions for Gas Company Rep. And we're going to
10 mark that for the record as Complainant's Exhibit 6.
11 Oh, no. Complainant's Exhibit 7. Excuse me.

12 (Whereupon, Complainant's
13 Exhibit No. 7 was marked for
14 identification.)

15 JUDGE HAYNES: And you also included your
16 Page 7 which is a letter from Cheryl Boyd.

17 MR. PALS: Yes.

18 JUDGE HAYNES: Did you want to talk about that
19 or --

20 MR. PALS: Yes. Basically -- now I'm not sure
21 about this. I am making what I believe is an
22 accurate assumption here. As best I can tell

1 regarding Page No. 7 and the reason I can't say for
2 sure is because there was no -- well, there is a
3 phone number on here, but I could never get back to
4 the lady who signed it, this Cheryl Boyd.

5 I believe that this letter came out of
6 my repeated requests with customer service and
7 customer service telling me that I would be contacted
8 and called back, but I never was contacted or called
9 back. So my Page No. 7, in an effort to be complete
10 with all of the documents I received, I submitted
11 because I had it, but I'm not quite sure exactly why
12 that letter came. I may be accurate in my assumption
13 as to why it came.

14 And in addition, that letter when I
15 got it did not again really address my concern. It
16 talks about how many cubic feet of gas I may have
17 used, and none of those issues were issues that were
18 in dispute. It talks about the cost of natural gas
19 and the market changes and all of those things. It
20 just simply says, We billed you according to meter
21 readings and our calculation as a two-pound pressure
22 service. But that didn't really explain the

1 complexity that I had or the complications that I had
2 that all of a sudden this pressure factor appeared.
3 But I don't know for sure whether I'm accurate as to
4 why that letter came to me.

5 JUDGE HAYNES: Okay. And we're going to mark
6 that one as Complainant's Exhibit No. 8.

7 (Whereupon, Complainant's
8 Exhibit No. 8 was marked for
9 identification.)

10 JUDGE HAYNES: Do you have any further things
11 to say in support of your complaint?

12 MR. PALS: Other than -- no. These are
13 basically the facts of the complaint as I see them
14 other than when all is said and done, I would like to
15 make a closing statement, but that can come later.

16 JUDGE HAYNES: Okay. Also included in your
17 pile and I don't -- I guess the question now is which
18 documents do you want to move into the record? Are
19 these all things that you would like to have included
20 in the record? Do you believe they all support your
21 complaint, all these documents?

22 MR. PALS: You're talking to me, Paul?

1 JUDGE HAYNES: Yes, I am.

2 MR. PALS: Okay. Yeah, I guess -- I mean, I
3 don't know. I'm not familiar with this procedure. I
4 just submitted these documents at your request for
5 discovery and I wanted to be complete.

6 JUDGE HAYNES: Okay.

7 MR. PALS: And I believe Documents 3 and 4 were
8 my original complaint, but I had found a
9 typographical error so I wanted to correct that and I
10 put a note on the top of Document 3 because I had
11 mistyped on the pressure for the generator. So
12 document Pages 3 and 4 that I submitted, I submitted
13 to make sure that the record was accurate. And
14 Documents 1 and 2 were the original copy of the form
15 I submitted. I didn't know if I was supposed to
16 submit them in the disclosure statement, so I wanted
17 to make sure I was complete so I put them in with it
18 even though you had received copies of that in the
19 original complaint.

20 JUDGE HAYNES: Okay. We don't need to include
21 in the record again the copies of your formal
22 complaint. And now I see that your Pages 3 and 4 are

1 the attachments to your formal complaint. And there
2 was -- what was the typo? What's the difference
3 between the attachment?

4 MR. PALS: I think I heard you right. I hear
5 some papers rustling in the background and I can't
6 quite get it. But if I heard you right, you asked
7 what my change was.

8 On my Page 3 when I submitted my
9 original one, I think I had in there that the
10 generator uses standard pressure and that was a typo
11 on my part. The generator, as I was told, uses
12 between 11- and 14-inch pressure and that's why I
13 needed two-pound service.

14 JUDGE HAYNES: Okay. We're going to include
15 your Page 3 then as Complainant's Exhibit 9 because
16 it contains that correction.

17 (Whereupon, Complainant's
18 Exhibit No. 9 was marked for
19 identification.)

20 JUDGE HAYNES: Okay. And I'm going to take
21 what you've just said as a motion to move
22 Complainant's Exhibits 1 through 9 into the record.

1 And I believe Mr. Thometz has some issues with that.

2 Do you want to take these individually
3 or --

4 MR. THOMETZ: Sure. Exhibit 1 I have a
5 foundation objection. This document, I've had a
6 chance to speak with Mr. Pals regarding these. I
7 believe all the information on this document was
8 given to Van Drunen by Mr. Pals. I don't believe
9 Van Drunen came up with these figures; is that
10 correct, Mr. Pals?

11 MR. PALS: No, that's not correct. I can
12 accurately describe that situation for the record if
13 I could have the opportunity.

14 JUDGE HAYNES: Go ahead.

15 MR. PALS: When I built this house, I was my
16 own general contractor, okay, and therefore I took
17 the responsibility of getting the gas service.

18 When Vickie asked me to submit a load
19 sheet, I did that because I was directly involved
20 with all of the appliances and everything that went
21 in here. What I found out was it needed to be done
22 on a letterhead, an official letterhead, and I'm not

1 an official businessman.

2 So what I did was I spoke to the
3 heating man who supplied me with the boilers, the
4 furnaces, and I said to him, I need this particular
5 load sheet to be verified. So he looked at what I
6 had because he had to do the piping, you know, for
7 that stuff and so on. And I said, Here's what I have
8 in my house and here's what I'm going to use in my
9 house. He says, Let me look at it.

10 As a matter of fact, the one thing I
11 corrected on that sheet earlier in our discussion,
12 the 150,000 BTU boiler, that boiler was based on his
13 quote that that was what he was going to install in
14 my home. But he changed that later because -- if you
15 want to know the details -- I had insulated so well
16 in my home, he says, You won't need 150,000; we can
17 put in 104,000 or whatever.

18 So those are numbers which he is
19 knowledgeable of and he gave to me when I said I need
20 this load sheet. But what I didn't realize is that
21 the gas company would not accept it from me; it had
22 to be accepted from someone who I guess they feel is

1 more knowledgeable than me on BTUs, et cetera.

2 So I discussed this sheet and these
3 appliances with him. And therefore he agreed and
4 that's why he signed the letter. He wouldn't have
5 signed the letter if anything there was inaccurate.
6 So it was just a matter of my not understanding
7 initially that it had to be done on an official
8 business letterhead. That is the man who installed
9 the furnaces and the boilers, et cetera.

10 MR. THOMETZ: So he signed this letter for you
11 once you provided this information on the furnace and
12 the BTUs of each one? You asked him to sign a
13 letter --

14 MR. PALS: No, no. He's the one who sold me
15 the furnaces. He knows the BTUs.

16 MR. THOMETZ: So he came out and looked at the
17 BTUs on all these different machines or you did that?

18 MR. PALS: No, no. He knew all these BTUs. I
19 had put these down because I was the one building the
20 house, I was the one purchasing the gas service. But
21 when the gas company would not accept a letter from
22 me only, I was forced to use him to verify that these

1 numbers were accurate.

2 MR. THOMETZ: My objection is that he put these
3 numbers down. He gave them to the heating company,
4 and they provided the letter. That's all.

5 JUDGE HAYNES: Well, we'll admit the exhibit,
6 you know, based on his statements of how the letter
7 was written.

8 MR. THOMETZ: Okay.

9 (Whereupon, Complainant's
10 Exhibit No. 1 was admitted into
11 evidence.)

12 JUDGE HAYNES: And Exhibit 2, do you have
13 any --

14 MR. THOMETZ: I'm going forward to --

15 JUDGE HAYNES: Exhibit 2 is admitted.

16 (Whereupon, Complainant's
17 Exhibit No. 2 was admitted into
18 evidence.)

19 MR. THOMETZ: -- Exhibit 7.

20 JUDGE HAYNES: So Exhibits 3 through 6 are
21 admitted.

22

1 (Whereupon, Complainant's
2 Exhibit Nos. 3-6 were admitted
3 into evidence.)

4 MR. THOMETZ: I'd like to ask a few questions
5 as to foundation of this exhibit.

6 JUDGE HAYNES: Are you able -- Mr. Pals, can
7 you hear the attorney?

8 MR. PALS: Very faintly but I'm --

9 MR. THOMETZ: Is this better, Mr. Pals?

10 MR. PALS: That's a lot better.

11 MR. THOMETZ: I'm looking at Plaintiff's
12 Exhibit 7.

13 MR. PALS: Okay. Just a minute. Let me get
14 that because I'm going by page numbers and I tried to
15 write these exhibits down.

16 Do you know what page number that is?

17 MR. THOMETZ: That's your exhibit -- your Page
18 No. 6.

19 MR. PALS: Okay. I have it.

20 MR. THOMETZ: Was this document -- what was the
21 date that this document was written?

22 MR. PALS: I don't know.

1 MR. THOMETZ: Did you write this document while
2 you were on the phone with Ms. Sons?

3 MR. PALS: No. I wrote this document while
4 Ms. Sons was meeting with me at my residence during
5 construction.

6 MR. THOMETZ: Okay. And is this the total --
7 do you have -- is there any more to this
8 conversation? Is this the complete recording of the
9 entire conversation you had with Ms. Sons?

10 MR. PALS: That's the complete recording of the
11 questions I had in mind to talk to her about.

12 And since you bring this up, I can
13 establish a foundation for -- I have a witness who
14 was there when we had this discussion, and I can
15 establish a foundation with this witness, and he can
16 testify to our discussion when we were at my
17 residence because he was there.

18 MR. THOMETZ: My objection is that this is a
19 self-serving --

20 JUDGE HAYNES: You have to speak up so that he
21 can hear you.

22 MR. THOMETZ: My objection is that it's

1 self-serving hearsay, and we'll present evidence to
2 the contrary, and it's not a complete recording of
3 the conversation.

4 JUDGE HAYNES: We're going to admit the
5 document and give it the weight that it's due.

6 (Whereupon, Complainant's
7 Exhibit No. 7 was admitted into
8 evidence.)

9 MR. PALS: I would be willing to -- I would
10 like at this time then to bring in my witness who can
11 verify the validity of this document since it seems
12 to me there is some question from the gas company on
13 the validity of the document since they brought that
14 up.

15 JUDGE HAYNES: Okay. We have just admitted it.
16 We're going to finish going through your documents,
17 and then you may call your witness.

18 MR. PALS: Okay.

19 JUDGE HAYNES: Mr. Thometz, do you have an
20 objection to Exhibits 8 or 9?

21 MR. THOMETZ: I'm objecting that it's hearsay.

22 JUDGE HAYNES: To both 8 and 9?

1 MR. THOMETZ: Just 9. I'm sorry.

2 MR. PALS: May I address that?

3 JUDGE HAYNES: Sure.

4 MR. PALS: Is the objection to this -- what is
5 the objection to Document No. 9? It is the gas
6 company's bill that was mailed to me. I don't
7 understand.

8 JUDGE HAYNES: I'm sorry. This is actually
9 your Page 3 which is Complainant's Exhibit 9.

10 MR. PALS: Oh, just a minute. This is my
11 Page 3?

12 JUDGE HAYNES: Yeah. We're going to admit it.
13 It's a correction of the attachment to your
14 complaint.

15 (Whereupon, Complainant's
16 Exhibit No. 9 was admitted into
17 evidence.)

18 JUDGE HAYNES: So at this time, Mr. Pals, would
19 you like to call your witness?

20 MR. PALS: Okay. Just a minute. I will have
21 to go get him. He's not in the room. Just a minute.

22 JUDGE HAYNES: Okay.

1 MR. PALS: Well, I'm sorry. But I got a
2 miscommunication and he left. He's not here, so I
3 don't have the witness. I just found that out so...

4 JUDGE HAYNES: Okay. We'll continue with the
5 company's witnesses then at this point.

6 Okay. Mr. Thometz, would you like to
7 call your first witness?

8 MR. THOMETZ: Can I make a brief opening
9 statement?

10 JUDGE HAYNES: Sure.

11 MR. THOMETZ: Mr. Pals, can you hear me?

12 MR. PALS: Yes, I can.

13 MR. THOMETZ: Briefly I just wanted to say a
14 couple of opening words. And basically what I hope
15 to explain through the testimony and the documents
16 that I present today is that the 1.119 pressure
17 factor that was applied to the bill is the issue of
18 the complainant and that's why his bill is high,
19 higher than he had expected it to be. And I think
20 the documents will show and the testimony will show
21 that Nicor went back and corrected a billing error, a
22 billing mistake, where that 1.119 pressure factor

1 should have been applied and wasn't, and so we went
2 back and changed that.

3 So with that I would like to call my
4 first witness, Miss Vickie Sons.

5 (Witness sworn.)

6 VICKIE SONS,
7 called as a witness herein, having been first duly
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY

11 MR. THOMETZ:

12 Q Vickie, where are you employed?

13 A Nicor Gas.

14 Q And how long have you been employed there?

15 A 17 years.

16 Q And your present position with Nicor?

17 A Gas construction consultant.

18 Q Okay. And are you familiar with Mr. Pals?

19 A Yes, I am.

20 Q Okay. At the time that you were -- did you
21 have contact with Mr. Pals in the past?

22 A Yes, I have.

1 Q And at the time of that contact, what was
2 your position at Nicor? Were you in the same
3 position or --

4 A Same position, yes.

5 Q And how are you familiar with Mr. Pals?

6 A Through the construction of his home while
7 out field inspecting for the service installation, he
8 was at the site and we had a brief conversation.

9 Q Okay. And what was your job when you were
10 at that site? What were you there for?

11 A I was field inspecting the job to make sure
12 that our path was clear for installation of the
13 service, to make sure there was no material in the
14 way, that there was nothing involved that would stop
15 us from installing it.

16 MR. THOMETZ: Mr. Pals, can you hear okay?

17 MR. PALS: Yes, I can.

18 BY MR. THOMETZ:

19 Q And how was it that you made contact with
20 Mr. Pals? How was the contact initiated?

21 A He was pulling up to the job site to check
22 the progress, the status of his home, and pulled in

1 with -- I believe it must have been his brother that
2 was driving. And I introduced myself and that was
3 how we had the conversation. He asked me a few
4 questions.

5 Q And what was the substance of your
6 conversations with Mr. Pals?

7 A He mentioned to me that he was installing
8 this backup generator, and he also indicated that he
9 was concerned about the difference in price for the
10 two-pound pressure set as opposed to the low pressure
11 set. I explained to him that the difference in price
12 would have a factor as far as I knew for the meter
13 charge due to the amount of load. Anything over a
14 million BTUs would require a larger meter at a
15 two-pound factor which would incur a higher monthly
16 meter charge.

17 Q Directing your attention to Plaintiff's
18 Exhibit No. 2 which I have a copy of, I'll look it up
19 here for you.

20 This document here, do you know what
21 that document is?

22 A Yes. It's the document that I drafted

1 myself for Mr. Pals indicating that at any point
2 within -- later in the year after we installed this
3 service, if his meter was not adequate to pass the
4 gas that he required for his generator, we would have
5 to go out and exchange that meter and he would incur
6 a larger amount monthly meter charge.

7 Q Okay. Now, this is dealing with the size
8 of this physical meter?

9 A Correct.

10 Q Now, are you involved in discussing charges
11 related to a factor or the gas bill itself?

12 A No, I'm not. I am not. I don't have any
13 knowledge of that.

14 Q So your knowledge goes to only the physical
15 machinery at the location, the installation of it and
16 the work, you know, outside of the home?

17 A That's correct.

18 Q You don't do -- do you do billing work?

19 A No, I don't.

20 Q Did you tell Mr. Pals that you did billing
21 for the company or that you, you know, had any
22 involvement with monthly bills or anything like that?

1 A Only related to the meter charge and the
2 service pipe charge.

3 Q Okay. Is there a charge related to a
4 big -- a different size meter or something?

5 A Yes, there is. Every meter has a different
6 charge. Anything that is larger than a 425 has a
7 larger monthly meter charge to it. The meter that he
8 has now is a 6.45 a month charge. If we were to go
9 to the next meter that would accommodate his total
10 load at a low pressure set, he would have been paying
11 \$50 a month.

12 Q I just want to make sure. You don't
13 contact the company and discuss that factor?

14 A No, I do not.

15 Q That's not your job?

16 A No, I do not.

17 Q What was the substance of your conversation
18 with Mr. Pals?

19 A Basically we just discussed the
20 installation, pressure, delivery. And I indicated to
21 him that I would require a two-pound pressure request
22 letter which I faxed over to him -- I have a copy of

1 it -- indicating that they were responsible for
2 regulating the two-pound set. Anything within their
3 appliances reduces it down to whatever their
4 appliances called for. That's the letter from
5 Mr. Van Drunen.

6 JUDGE HAYNES: You're talking about
7 Complainant's Exhibit 1?

8 THE WITNESS: I don't know what the numbers
9 are.

10 JUDGE HAYNES: Mr. Thometz, is that what she's
11 talking about?

12 MR. THOMETZ: Is this from Van Drunen?

13 JUDGE HAYNES: Yes.

14 MR. THOMETZ: Yes. That's Plaintiff's
15 Exhibit 1.

16 I'll pass the witness to Mr. Pals.

17 JUDGE HAYNES: Could you repeat what you just
18 said about the letter? You faxed this letter to him?

19 THE WITNESS: I faxed this letter to him, yes.
20 I have a copy of it. I believe I faxed it to
21 Mr. Richard Cook who I have on record as being the
22 builder of the home.

1 JUDGE HALOULOS: Is this what you're talking
2 about?

3 THE WITNESS: This is the letter, yes, but this
4 is the form letter. This is our generic letter that
5 we fax to our builders when they request pressure
6 delivery other than the standard.

7 JUDGE HALOULOS: And you faxed this to Mr. --

8 THE WITNESS: No. I faxed this one.

9 JUDGE HAYNES: You faxed the blank form to who?

10 THE WITNESS: The blank form.

11 JUDGE HAYNES: To who?

12 THE WITNESS: Asking him -- to Mr. Cook.

13 JUDGE HAYNES: And who is Mr. Cook?

14 THE WITNESS: Mr. Cook is the customer -- or
15 the builder I have on record indicating that that was
16 the builder, construction manager, Rich Cook.

17 MR. THOMETZ: I think this is outside the scope
18 of my questioning.

19 JUDGE HAYNES: Well, it goes to the foundation
20 of the letter that you raised.

21 MR. THOMETZ: Sure.

22 JUDGE HAYNES: Is Mr. Cook with Van Drunen?

1 THE WITNESS: I have no idea. According to
2 what I have here, Mr. Cook is -- he was with Cook
3 Builders. He was the construction manager. And
4 that's what this two-pound request form letter that
5 we sent out responded to.

6 JUDGE HAYNES: And the form letter, could you
7 just describe what's left blank? What do they have
8 to fill in?

9 THE WITNESS: It basically says, On behalf of
10 blank, I am requesting two-pound per square inch gas
11 delivery pressure at the meter located at -- then it
12 has the name, address, town, primary contact person,
13 phone number.

14 The following equipment requires such
15 pressure and I understand that it is our
16 responsibility to regulate the blank psi pressure and
17 notify the mechanical contractor of the delivery
18 pressure.

19 And then it asks for him to list all
20 the appliances and the maximum BTU usage, the total
21 BTUs, print the name, sign, signature, and it has to
22 be submitted on company letterhead.

1 JUDGE HAYNES: Okay. Thank you.

2 THE WITNESS: You're welcome.

3 JUDGE HAYNES: You're done with your direct?

4 MR. THOMETZ: Yes.

5 JUDGE HAYNES: Mr. Pals, do you have any

6 questions for Ms. Sons?

7 MR. PALS: Well, I couldn't write fast enough.

8 I guess I could say one thing. I can see the

9 approach. I guess my concern is I would just

10 disagree with the testimony, but I can --

11 MR. THOMETZ: I'm going to object if he's not

12 going to ask any questions.

13 MR. PALS: If I have a chance to rebut the

14 testimony in another statement, I'll do that.

15 JUDGE HAYNES: Do you have any questions for

16 Ms. Sons?

17 You can take a minute if you want to

18 think about it.

19 JUDGE HALOULOS: Mr. Pals?

20 MR. PALS: Yes.

21 JUDGE HALOULOS: Did you hear her?

22 MR. PALS: Yes, I did. No. I don't have any

1 questions.

2 MR. THOMETZ: I call my next witness, Tom
3 Moretti.

4 (Witness sworn.)

5 THOMAS MORETTI,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY

10 MR. THOMETZ:

11 Q What is your name?

12 A Thomas Moretti.

13 Q Please spell your last name.

14 A M-o-r-e-t-t-i.

15 Q Tom, where are you employed?

16 A Nicor Gas.

17 Q And how long?

18 A 27 years.

19 Q What is your position at Nicor?

20 A Customer relations manager.

21 Q How long have you been in that position?

22 A I've been in that position for eight years.

1 Q All right. Are you familiar with the 1.119
2 pressure factor?

3 A I am.

4 Q And how are you familiar with that?

5 A It's associated with a two-pound pressure
6 delivery system.

7 Q Are you familiar with the delivery system
8 that Mr. Pals has at his home?

9 A If it's -- yes. I'm familiar with that,
10 that it's one of our standard two-pound pressure
11 delivery systems.

12 Q So he has a two-pound pressure?

13 A Right.

14 JUDGE HAYNES: One of the standard two-pound --
15 what was that?

16 THE WITNESS: Two-pound pressure delivery
17 system.

18 JUDGE HAYNES: Okay.

19 BY MR. THOMETZ:

20 Q And tell me about the charges relating to a
21 two-pound pressure system.

22 A Well, based on the meter set at his

1 location which Vickie Sons said was a 425 meter, the
2 meter there is designed -- it's a diaphragm meter.
3 It's temperature compensated, but it's not pressure
4 compensated. As a result of that, the two-pound
5 pressure that flows in through that meter cannot be
6 adjusted by that meter on site. It's not a
7 mechanically adjustable meter as some of the larger
8 meters are. So as a result of that when the meter is
9 set and the reading is taken, on the billing system,
10 Nicor Gas' billing system, the system will adjust the
11 cubic footage by a factor of 1.119 to accommodate the
12 change in pressure.

13 Q Let me show --

14 JUDGE HAYNES: Before you go on, you said
15 something, the meter was a 425?

16 THE WITNESS: Right.

17 JUDGE HAYNES: Could you explain --

18 THE WITNESS: That's for 425,000 cubic feet.

19 JUDGE HAYNES: Okay.

20 THE WITNESS: It's a standard -- industry
21 standard, a way of describing the different size of
22 the meters. Meter manufacturers usually put that

1 sign onto it.

2 JUDGE HAYNES: Okay.

3 MR. THOMETZ: And my exhibit Page No. 10 which
4 is the Northern Illinois Gas Company Rate Memorandum
5 Rider 5 -- Mr. Pals, do you have that document?

6 MR. PALS: I'm looking for it because I don't
7 have a page number so let me see if I can find it.

8 JUDGE HAYNES: Is it two pages?

9 MR. THOMETZ: Yes, it is.

10 MR. PALS: Was this the last two pages stapled
11 in your packet -- wait a minute.

12 JUDGE HAYNES: I don't think so.

13 MR. PALS: One with all those little boxes like
14 a chart-type thing?

15 MR. THOMETZ: No.

16 JUDGE HAYNES: Couple pages back.

17 MR. THOMETZ: It's about three pages before
18 that, three or four pages before that, top right of
19 the document says January 15, 1991.

20 MR. PALS: Just a minute.

21 JUDGE HAYNES: Should we mark this for the
22 record as Respondent's Exhibit 1?

1 MR. THOMETZ: Please.

2 (Whereupon, Respondent's Exhibit

3 No. 1 was marked for

4 identification.)

5 MR. PALS: I'm still looking. I don't know if

6 I've found the document yet.

7 JUDGE HAYNES: Rider 5, High Pressure Gas

8 Service.

9 MR. PALS: Okay. I have it.

10 JUDGE HAYNES: It's two pages long, and we've

11 marked it as Respondent's Exhibit 1.

12 BY MR. THOMETZ:

13 Q Tom, directing your attention to this

14 document. Are you familiar with that document?

15 A I am.

16 Q What is this document?

17 A It says, Rate Memorandum Rider 5, and it

18 pertains strictly to high pressure delivery.

19 Q Is this document kept in the regular course

20 of business for Nicor?

21 A Yes, it is.

22 Q Okay. On the bottom of the page, we see an

1 asterisk next to something that says Two Pounds Per
2 Square Inch Pressure.

3 Could you tell me what this is and
4 read that paragraph for me?

5 A Okay. Two pounds per square inch gauge
6 delivery pressure (2 psig) will be --

7 THE REPORTER: Slowly, please.

8 THE WITNESS: I'm sorry. Do you want me to
9 start over?

10 THE REPORTER: Sure.

11 JUDGE HAYNES: We're actually not with you. On
12 the second page?

13 THE WITNESS: I'm sorry. It should be Page 2
14 of that.

15 JUDGE HAYNES: Okay.

16 THE WITNESS: It says Two Pounds Per Square
17 Inch.

18 JUDGE HAYNES: Got it.

19 THE WITNESS: Two pounds per square inch
20 delivery pressure (2 psig) will be provided, where
21 available, to any customer.

22

1 BY MR. THOMETZ:

2 Q Okay. And that's what happened here;
3 Mr. Pals' generator required a two-pound pressure so
4 we gave him the two-pound pressure?

5 A That's correct.

6 Q Please continue.

7 A Although 2 psig is necessary for
8 residential and small nonresidential users to be able
9 to use semi rigid interior piping, it will provided
10 upon request to any customer regardless of the
11 customer's piping system where adequate pressure is
12 available at the service regulator.

13 Q So that's what's happened here. You gave
14 him the two-pound pressure, correct?

15 A That's correct.

16 Q The next page, the top part, describes the
17 delivery pressure order. I want you to go to the
18 second sentence there where it starts, The DPC...
19 Could you please read that.

20 JUDGE HAYNES: Wait. Wait. The next page?
21 This was a two-page document. So are we on a new
22 exhibit?

1 MR. THOMETZ: I think it's a three -- it may be
2 a three-page document. It is a three-page document.
3 I'm sorry.

4 JUDGE HAYNES: Is it not a four-page document?

5 MR. THOMETZ: Yes. It is a four-page document.

6 JUDGE HAYNES: Okay. So Respondent's Exhibit 1
7 is four pages long. Now we're on the third page.

8 Do you have that, Mr. Pals?

9 MR. PALS: I have it.

10 JUDGE HAYNES: Okay. Continue.

11 THE WITNESS: I'll read this sentence off. The
12 DPC -- which is the delivery pressure change card,
13 change order -- will create a meter exchange in the
14 revenue accounting system.

15 BY MR. THOMETZ:

16 Q Okay. Now, let me ask you this: Earlier
17 we heard testimony from Mr. Pals specifically
18 regarding Plaintiff's Exhibit No. 3 where Mr. Pals
19 has testified that he got his bill and it described a
20 meter exchange, he looked out the window, and the
21 meter was painted to match his house, and someone
22 went and checked the meter number and it was the same

1 exact meter and there couldn't have been a meter
2 exchange.

3 This document here, what does this
4 meter exchange mean and why was it on this bill
5 specifically?

6 A Well, at the time when we found out the
7 billing error, we determined that the card or the
8 change order that should have been entered into the
9 system back in 2000 had not occurred. Therefore the
10 billing clerk was going to make the correction,
11 prepare the delivery pressure change order card as
12 stated in this memorandum and enter it into the
13 system. And the system, the billing system will take
14 that information and as it shows on Mr. Pals' bill
15 that meter exchange occurred. It's just a records
16 only -- what we call a records only change order.
17 Nothing physically changed at Mr. Pals' residence.

18 Q It's the company policy to put on the bill
19 that there was a meter exchange. Although there
20 hasn't actually been a physical exchange of a piece
21 of equipment, it's just showing that there's a change
22 in something?

1 A Correct. Because we had to put that in so
2 that we could accurately bill the usage based on the
3 two-pound pressure.

4 Q So please finish -- start over with that
5 sentence, please.

6 A The DPC will create a meter exchange in the
7 revenue accounting system and will automatically set
8 the billing factor to 1.119 except in the Carthage
9 area.

10 Q So when a customer requests a two-pound
11 pressure, two things happen: There's a meter --

12 JUDGE HAYNES: Perhaps the witness could
13 explain the two things.

14 BY MR. THOMETZ:

15 Q Tell me what happens.

16 A Well, what happens is that, one, we will
17 notify or at least on the bill it will show that
18 there was a meter exchange literally which indicates
19 that the pressure factor of 1.119 will be instituted
20 for billing purposes.

21 Q Was the 1.119 factor instituted at the time
22 the two-pound pressure was installed?

1 A No, it was not.

2 Q Do you know why?

3 A Don't know exactly why. It just was a
4 clerical oversight as best I can determine.

5 MR. THOMETZ: Okay.

6 JUDGE HAYNES: So what you're saying is that
7 there's not actually a meter exchange?

8 THE WITNESS: Correct.

9 JUDGE HAYNES: And this is -- is this a tariff
10 that's filed with the Commission?

11 THE WITNESS: No. That is an internal
12 document.

13 JUDGE HAYNES: Rider 5 is an internal document?

14 THE WITNESS: It's a rate memorandum. Rider 5,
15 there is an actual Rider 5 which is part of our Terms
16 and Conditions. But this is an internal document
17 that we define as Rider 5.

18 JUDGE HAYNES: So two completely separate
19 things?

20 THE WITNESS: Correct.

21 JUDGE HAYNES: And where does this 1.119 come
22 from?

1 THE WITNESS: We have a formula. Well, we do
2 describe that in our Terms and Conditions. I can --
3 do you want to show that?

4 MR. THOMETZ: Is that in this one?

5 THE WITNESS: No. That's the other. Page 44.

6 MR. THOMETZ: Let me see. Give me one moment
7 to find it. I have it here somewhere.

8 JUDGE HAYNES: So this is an internal document
9 that relates, though, to Tariff Rider 5.

10 THE WITNESS: Well, we use it -- no it's an
11 internal document that -- I'm not -- why they titled
12 it Rider 5, I'm not sure. That's something before my
13 time, but that's how they defined it.

14 JUDGE HAYNES: Okay.

15 MR. THOMETZ: Here it is.

16 THE WITNESS: But the language that's pertinent
17 to us is on our Terms and Conditions. It's Revised
18 Sheet No. 44 which talks about high pressure gas
19 service.

20 JUDGE HAYNES: Is your attorney going to offer
21 that as an exhibit?

22 MR. THOMETZ: Yes, I will. I was hitting that

1 next. I was searching for it.

2 JUDGE HAYNES: Go ahead.

3 THE WITNESS: We're jumping ahead a little bit.

4 JUDGE HAYNES: Continue then.

5 MR. THOMETZ: I would have been looking for

6 this anyway.

7 BY MR. THOMETZ:

8 Q Showing you what's Northern Illinois Gas

9 Company Ill.C.C. No. 16, 1st Revised Sheet No. 44 --

10 MR. PALS: Excuse me. But I've lost track of

11 what sheet we're on now, if I misunderstood

12 something.

13 MR. THOMETZ: This is a --

14 THE WITNESS: It's a tariff sheet.

15 MR. THOMETZ: It's tariff sheet with the

16 Illinois Commerce Commission. I'm also going to

17 later use Section 280 which is, I believe --

18 JUDGE HAYNES: Did you provide these to --

19 MR. THOMETZ: This document and the statute,

20 no, I haven't.

21 JUDGE HAYNES: Okay.

22 MR. PALS: Are you referring to a document that

1 you have presented to me?

2 MR. THOMETZ: These are legal -- these are
3 public records.

4 MR. PALS: So I don't have these documents in
5 front of me; is that accurate?

6 MR. THOMETZ: No. I didn't provide Section 280
7 or the Illinois Commerce Commission tariff.

8 JUDGE HAYNES: You will need to provide
9 those --

10 MR. THOMETZ: Section 280?

11 JUDGE HAYNES: Well, you're using them as an
12 exhibit and you were aware that Mr. Pals would not be
13 here in person.

14 MR. PALS: Yeah. I would object to those being
15 used at this point. I'm not prepared to read them or
16 know anything of what's going on.

17 JUDGE HAYNES: Do you have a fax machine,
18 Mr. Pals?

19 MR. PALS: Yes.

20 JUDGE HAYNES: Is there any way that we could
21 fax this to you? This is, I believe, two pages.

22 Are there any other documents that you

1 haven't provided?

2 MR. THOMETZ: No.

3 JUDGE HAYNES: Would that be okay, Mr. Pals?

4 MR. PALS: Well, I guess. I'll look at them as

5 fast as I can but, yeah.

6 JUDGE HAYNES: Let's go off the record to get

7 your fax number.

8 (Whereupon, a discussion was had

9 off the record.)

10 JUDGE HAYNES: Let's go back on the record.

11 We're going to go off the record

12 again.

13 (Whereupon, a discussion was had

14 off the record.)

15 JUDGE HAYNES: Okay. What number are we on

16 here for the exhibits?

17 MR. THOMETZ: I think 2.

18 JUDGE HAYNES: So what are we doing first? The

19 Terms and Conditions will be Respondent's Exhibit 2.

20 MR. THOMETZ: That's fine.

21

22

1 (Whereupon, Respondent's Exhibit
2 No. 2 was marked for
3 identification.)

4 MR. THOMETZ: Can you hear me, Mr. Pals?

5 MR. PALS: Yes, I can.

6 BY MR. THOMETZ:

7 Q Directing your attention, Tom, to Terms and
8 Conditions, middle of the page says, High Pressure
9 Gas Service?

10 A Yes, I see it.

11 Q Could you read that aloud, please.

12 A The entire section?

13 Q Just the section, yes.

14 A High pressure gas service. Gas is normally
15 supplied by the company from a main or service
16 regulator normally operating at low pressure
17 equivalent to 6 inches of water pressure. Two pounds
18 per square inch gauge pressure (2 psig) is available
19 up to 1,000 cubic feet per hour if required and where
20 adequate pressure is available at the service
21 regulator.

22 Q And is that two-pound, is that the service

1 at Mr. Pals' house?

2 A That's correct.

3 Q Two paragraphs down it discusses billing
4 purposes. Can you tell me what the substance of this
5 paragraph is?

6 A That is the language that defines the
7 adjustment, the multiplier to the cubic feet used.

8 Q Is that relating to a two-pound pressure?

9 A That's correct.

10 Q And I see there's some kind of mathematical
11 formula. What does that formula result in?

12 A Based on the pressure and the algorithm
13 that's used, it will equate to the 1.19 -- excuse
14 me -- 1.119 factor that's used for billing.

15 Q And was this document filed and approved
16 with the Illinois Commerce Commission?

17 A It was.

18 MR. THOMETZ: Directing your attention to the
19 second fax you received, Mr. Pals, which is in part
20 Section 280.100 of the Illinois Commerce Commission.

21 JUDGE HAYNES: And we're going to mark it as
22 Respondent's Exhibit 3.

1 (Whereupon, Respondent's Exhibit
2 No. 3 was marked for
3 identification.)

4 BY MR. THOMETZ:

5 Q Specifically could you please read
6 Section 280.100, Unbilled Services, Part A-1 -- A and
7 1?

8 A Okay. Section 280.100, Unbilled Service,
9 Part A. A utility may render a bill for services or
10 commodities provided to, one, a residential customer
11 only if such bill is presented within one year from
12 the date the services or commodities were supplied.

13 Q Tom, from the time that we -- did Nicor
14 realize that they has misbilled Mr. Pals?

15 A They determined that in December of 2003.

16 Q And for what period -- how long was it
17 misbilled for?

18 A I believe the service was installed in
19 September of 2000, so that would be a little over
20 three years.

21 Q Okay. So has it been Nicor's practice in
22 light of what you read me for Section 280.100 to back

1 bill for how long?

2 A In most cases if we encounter a situation
3 where we underbill the customer, we go back a year
4 for residential.

5 Q And why a year?

6 A Because of the code.

7 Q Okay. And in this case, did we back bill
8 Mr. Pals for the improper factor?

9 A No, we did not. We did not back bill.

10 Q What did we do?

11 A We just updated the system accordingly,
12 corrected the billing error and proceeded to bill
13 future billing periods.

14 MR. THOMETZ: Okay. Pass the witness.

15 MR. PALS: I didn't hear. Something got goofed
16 up with the phone. I didn't hear that last
17 statement.

18 JUDGE HAYNES: Do you have any questions for
19 the witness, Mr. Pals?

20 MR. PALS: Yes.

21 JUDGE HAYNES: Go ahead.

22

1 CROSS-EXAMINATION

2 BY

3 MR. PALS:

4 Q In the course of this questioning by
5 Mr. Thometz, he referred you to something about
6 meters -- excuse me -- the gas meter, and you said
7 something about temperature compensation but not
8 pressure compensation to that effect with regard to a
9 meter that I may have; do you recall that?

10 A Yes, I do.

11 Q As a customer, am I supposed to know that?

12 A As far as the type of meter?

13 Q Yes.

14 A The meter -- I believe there is a meter
15 number on your bill, but I don't know if there's an
16 actual meter that tells you what exactly the meter is
17 as far as its size.

18 Q So as a customer, I would not know
19 statements like you made about, Well, certain meters
20 are temperature compensated but not pressure
21 compensated, et cetera?

22 A I don't believe that's on the bill that you

1 get in the mail.

2 Q Okay. So I would not know that.

3 And is it accurate to say that the
4 people who represent Nicor Gas do not explain those
5 things to their customers when they purchase
6 services?

7 A In general when a customer comes on
8 service, we'll tell them about the billing charges
9 and anything else that's appropriate. I'm not sure
10 exactly what specifically --

11 Q So would it be accurate to say that these
12 kind of explanations at this point in time about
13 temperature compensation and pressure compensation of
14 meters would not be information that I would be aware
15 of by any information provided to me by Nicor?

16 A Well, based on the information that the
17 clerk has available to them, they may or may not.

18 MR. PALS: Okay. Well, for the record --

19 THE WITNESS: In your particular case, the
20 system was not updated to reflect that you had a
21 two-pound pressure system.

22

1 BY MR. PALS:

2 Q You also spoke with Mr. Thometz about some
3 sort of a Rider 5 document, I believe.

4 Now, these documents are not known or
5 probably even expected to be under- -- or given to
6 customers when they apply for service, are they?

7 A That's correct. That's an internal
8 document.

9 Q So I would know nothing of this document
10 and any of the explanations you've made about this
11 document as a consumer; would that be accurate to
12 say?

13 A No. The Rider 5 is basically a reference
14 document for company use.

15 Q Okay. But I gather by the questioning that
16 this is being used as part of the explanation for why
17 my billing has been changed approximately three and a
18 half years after the service was installed, correct?

19 A Really the document that we're using for
20 the billing correction was our Terms and Conditions.
21 The Rider 5 document just goes into more detail for
22 company use.

1 Q Okay. So that wouldn't be something that I
2 would be aware of at all, correct?

3 A Well, our Terms and Conditions are public
4 information, so they are available to customers.

5 Q But they're not presented to customers when
6 they apply for service; is that accurate?

7 A Generally, that's not the case, correct.

8 MR. PALS: Okay. That's all I have at this
9 point.

10 JUDGE HAYNES: I have a question about
11 Mr. Pals' bills and when the meter exchange took
12 place.

13 THE WITNESS: Uh-huh.

14 EXAMINATION

15 BY

16 JUDGE HAYNES:

17 Q Can you explain how the reading was 9503
18 and then it went to 34? Did the meter --

19 A That was the December bill?

20 Q Yes. Complainant's Exhibit 3 I see it on.

21 A Yeah. I see it here. It went from -- what
22 were the numbers you were referring to?

1 Q The previous reading was 9503.

2 A And it went to 0034?

3 Q Yes.

4 A That's a four-dial meter, so when the

5 consumption is used, it will turn it over to the

6 zero. So it just rolled over, kind of like an

7 odometer on your car.

8 Q So it wasn't reset when this happened?

9 A No, no.

10 JUDGE HAYNES: Mr. Pals, do you have any more

11 questions?

12 MR. PALS: No.

13 JUDGE HAYNES: Does anybody have anything

14 further?

15 MR. THOMETZ: Just a brief closing.

16 JUDGE HAYNES: We have not admitted your --

17 MR. THOMETZ: Move to admit Plaintiff's

18 Exhibits 1 and 2.

19 JUDGE HAYNES: Mr. Pals, do you have an

20 objection to admitting Respondent's Exhibits 1 or 2

21 into the record?

22 MR. PALS: Well, I don't know the numbers

1 because I've lost track of them.

2 JUDGE HAYNES: No. 1 is the Rider 5; No. 2 is
3 the page we faxed you, the Terms and Conditions.

4 MR. THOMETZ: And if you want Section 280.100.

5 JUDGE HAYNES: I don't think that's necessary.

6 MR. PALS: Well, I only have -- the objection I
7 have to that kind of evidence basically is that in my
8 opinion, it's after the fact. It's no evidence that
9 I ever had prior to installing gas service, and how
10 would I know any of that pertains to me. Now it
11 wants to be used against my complaint. But that's my
12 only objection to using it at a point when consumers
13 are not given that information.

14 JUDGE HAYNES: Okay. We'll admit it into the
15 record, and you have made it clear that you did not
16 receive this before getting your service.

17 MR. PALS: Okay.

18 (Whereupon, Respondent's Exhibit
19 Nos. 1-2 were admitted into
20 evidence.)

21 JUDGE HAYNES: Would you like to make a closing
22 statement, Mr. Pals?

1 MR. PALS: Pardon me?

2 JUDGE HAYNES: Would you like to make a closing
3 statement, Mr. Pals?

4 MR. PALS: Yes. If I may ask a clerical
5 question, I guess, because I'm new to this: Are we
6 at Step 5 now that we're finished with the testimony
7 on my behalf and their behalf?

8 JUDGE HAYNES: Yes.

9 MR. PALS: Now, does the gas company have a
10 closing statement?

11 JUDGE HAYNES: They do.

12 MR. PALS: Now who goes first, who goes second
13 or what?

14 JUDGE HAYNES: You go first, Mr. Pals.

15 MR. PALS: Okay. Then is this my last chance
16 to say anything, or do I have a chance to say
17 something after the gas company's closing statement?

18 JUDGE HAYNES: Depending on what he says and if
19 you have a good reason to say something afterwards,
20 we'll consider it. How about that?

21 MR. PALS: Okay. I'm just looking at the set
22 of instructions. I didn't know that there was going

1 to be a closing statement on the part of the gas
2 company from these instructions. That's why I'm just
3 trying to clarify so I understand what will or will
4 not happen.

5 JUDGE HAYNES: I don't know what instructions
6 you're talking about.

7 MR. PALS: Well, when I received my formal
8 complaint, I got a pink sheet of paper from the
9 Illinois Commerce Commission called the Quick
10 Reference Guide to Preparing for a Formal Complaint,
11 and there is a section here on the hearing, at the
12 hearing, and it says I will have to testify, my case
13 first.

14 JUDGE HAYNES: Okay. That's fine. I've worked
15 here five years and I did not know we sent that out.
16 Interesting.

17 MR. PALS: And then after that it says -- then
18 after I present, the utility can ask me questions,
19 which they did. Then the utility presented its
20 witnesses and documents. Then I will have the chance
21 to ask questions of them if I choose. And then it
22 says when we're finished with that step, then I can

1 again testify if I want or present witnesses to
2 challenge or rebut, and I've asked some questions and
3 so forth. And then it says I will have an
4 opportunity to make a closing statement.

5 JUDGE HAYNES: Okay.

6 JUDGE HALOULOS: Okay. And that's the
7 opportunity now, so do you want to get started on
8 your closing statement?

9 MR. PALS: Okay.

10 JUDGE HALOULOS: Great.

11 MR. PALS: I would ask the Commission to
12 consider the entire set of facts that I have
13 previously presented. And it is in my opinion
14 important to keep in mind that I have done my level
15 best from the very beginning back in 1999 to do my
16 homework in an effort to avoid being in the position
17 that Nicor has now placed me in since December of
18 2003.

19 I was upfront, completely honest and
20 accurate with all of the information I presented to
21 Nicor from the very beginning, and I believe that the
22 documents that I have presented support this fact.

1 In effect I have jumped through every hoop that Nicor
2 required of me from beginning to end.

3 Unfortunately, at this point Nicor
4 wants to bring up items that I have no way of knowing
5 anything about such as temperature compensated meters
6 and not pressure compensated meters, things like
7 Rider No. 5 which apparently applies to this
8 situation as they feel, but now we are three and a
9 half years after the fact.

10 It is important to remember that I
11 have made decisions and judgments that have long term
12 financial implications for me based on the
13 information that was provided to me by Nicor. I have
14 made significant financial investments, for example,
15 approximately \$8,500 for the purchase and
16 installation of a generator, again based on
17 information provided to me by Nicor, yet we know
18 clearly by Nicor's own admission that they have made
19 mistakes. I have had misinformation on numerous
20 occasions, and I have even been deceived by my gas
21 bill.

22 I would ask that you please keep in

1 mind that had it not been for my carefully looking at
2 my bill and being very persistent about that bill, I
3 would think I had a new gas meter installed in
4 December of 2003 while in reality I was paying an
5 additional 11.9 percent on every bill and Nicor would
6 never have informed me of that.

7 I hope you will give serious
8 consideration to the implications of the decision to
9 resolve this problem. If this change by Nicor is
10 allowed to stand, I will pay day after day, week
11 after week, month after month and year after year for
12 the rest of my life.

13 In my opinion Nicor has continued to
14 open the barn door to allow the horse to get out.
15 And after numerous Nicor people have continued to
16 open the barn door, they are now requiring me to pay
17 an additional fee for the rest of my life to keep the
18 barn door closed so the horse can't get out anymore.
19 I have never opened the barn door and therefore I
20 don't feel I should be responsible for the cost of
21 keeping the barn door closed.

22 As was filed in my initial complaint

1 where I requested reimbursement for the time period
2 that they had billed me for this factor, this
3 pressure factor and the permanent removal of this
4 factor, I pointed out that it is in the Illinois
5 Commission Rules of Title 83, Illinois Section 280.10
6 policy which states, quote, It is the duty of the
7 utility to demonstrate good faith and fair dealing.

8 On that basis and all of the facts
9 that I have previously presented, Nicor has not in my
10 opinion abided by that and should be required to
11 permanently remove the 11.9 percent pressure factor
12 from my bill as well as reimbursement for the time
13 period that has been placed on there. Thank you.

14 JUDGE HAYNES: Mr. Thometz?

15 MR. THOMETZ: Thank you.

16 This was an unbilled gas service
17 situation. From day one, there was a billing error
18 that was made.

19 Mr. Pals has testified that he spoke
20 to Vickie. We've heard testimony from Vickie that
21 her job isn't to calculate gas bills and factors.
22 Vickie goes to the site and deals with installing a

1 physical meter on someone's property.

2 It wasn't an issue because it was
3 misbilled services. And if allowed to continue
4 receiving what the complainant asks for which is the
5 old gas bill, Mr. Pals would be receiving free gas.

6 He said that he, you know, he's forced
7 to pay day after day and year after year. We've
8 given him the option of removing the two-pound
9 pressure. Unfortunately he has a generator at his
10 property. But if he doesn't want to pay that 1.119
11 multiplier that's related to having that pressure,
12 we'll remove it and he won't have to pay that.

13 And in terms of good faith, we've
14 tried to work with Mr. Pals continuously throughout
15 this process. Just last week, you know, we made a
16 last call to him to try to work with him and we tell
17 him we can remove that. Section 280 says that we're
18 allowed to go back one year. I think we've shown
19 good faith by not going back a year and asking him to
20 pay for the unbilled services for the prior year that
21 he had not been charged that factor.

22 So what we'd like to do is move

1 forward from where we found out that we weren't being
2 paid for the full use of the gas, and we would remove
3 the two-pound pressure from Mr. Pals' home and the
4 1.119 pressure wouldn't be an issue. But at this
5 point, we're moving forward and billing him the
6 proper factor for the amount of gas and the equipment
7 he's using.

8 I'd ask that the Commerce Commission
9 consider all the evidence and make its ruling
10 accordingly. Thank you.

11 JUDGE HAYNES: Mr. Pals?

12 MR. PALS: Well, I would only say that I think
13 Mr. Thometz's closing statement comments just
14 reinforce what I have pointed out in the experience I
15 have had with the gas company. Sure, they would
16 gladly remove the two-pound pressure with no concern
17 that I sit here with an \$8,500 investment that I made
18 on information previously given to me, that now
19 basically I'm throwing \$8,500 out the window that I
20 can't use and something which I need for my
21 disability. So that's one thing.

22 And, again, with regard to

1 Mr. Thometz's comment related to the effort to settle
2 with me, I did receive a call on Tuesday. But,
3 again, I would ask the Commission to really look at
4 the facts. What I was offered was a one-time, \$1,000
5 credit toward my gas bill. And let's look at the
6 implications of that.

7 That really does not address the issue
8 because, to reiterate my statement, I'm not dealing
9 with a one-time overcharge or undercharge from the
10 gas company that we have a dispute for a set amount
11 of money. I know the gas company would be happy to
12 take that approach because what happens then is I'm
13 still sitting here with a bill that will go on at a
14 higher rate contrary to the information that I was
15 given over and over and over again.

16 Any gas company -- any company would
17 take that as a solution to the fact that this, you
18 know -- I'm looking at probably who knows what.
19 Especially in light of current gas prices, it even
20 gets worse. I may be looking at 40, 50, 60, \$70,
21 sometimes \$100 a month more on an existing gas bill.
22 What is \$1,000 in a case like that? When you look at

1 it over the long term, it is minimal.

2 I tried my best to avoid this exact
3 situation before I ever purchased a two-pound
4 service. And simply put, the facts of the matter are
5 we have to look from the beginning, not just from the
6 December gas bill. I was misinformed and I was
7 deceived by adding the factor at a later date, on top
8 of it, to not even tell people that. The bottom line
9 is, it's not fair to a consumer to take that approach
10 in my opinion. Thank you.

11 JUDGE HAYNES: Okay. Just so we're clear,
12 Mr. Pals, at the Commission the next stage is --

13 MR. PALS: I'm sorry? Can you talk a little
14 louder. I can barely hear you.

15 JUDGE HAYNES: Sorry.

16 At the Commission the next stage is
17 that Judge Haloulos and myself will serve the parties
18 with a proposed order. And you'll have an
19 opportunity to brief that if you disagree with it or
20 the company will have an opportunity. And then you
21 can reply to each other's briefs. And then after
22 that, then the Commission votes on that order. And

1 at that time once the Commission finally votes, then
2 that is the final decision of the Commission. So it
3 will still be awhile before this is done just so
4 you're aware.

5 And there's nothing else, so I will
6 mark the record heard and taken.

7 HEARD AND TAKEN.

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